50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

4

(DESTRUCTION OF RECORD RULES,1990)

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R.A/C.P No. 50/2004
E.P/M.A No. 73/03

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SECTION OFFICER (Judl.)

FROM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Applecation No: 157/03

Mise Petition No: /

Contempt Petition No: /

Review Applecation No: /

Applecants:- Anima Talukdar

Respondants:- U.O.I. Tors

Advocate for the Applecants:- B.K. Sharma, S. Sarma, Miss U. Das

Advocate for the Respondants:- Cafc.

Notes of the Registry	Date	Order of the Tribunal
vide IPO 86 488702 Dated 1-7-03 Dy. Registrar 14/7/03 Steps taken alongwith envelops.	30.7.2003	Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman. The Hon'ble Mr. N.D. Dayal, Administrative Member. Heard Mr. S.Sarma, learned counsel for the applicant. Issue notice to show cause as to why the application shall not be admitted. List on 1.9.2003 for admission. Pendency of this application shall not preclude the authority to consider the case of the applicant. Member Vice-Chairman
One Copy Short. Notice prepared & sent to D/s for issuing the respondent No. 1 to 4 by Regd. along with Misc. Case 73/03 D/No D/d 31/7	mb	

No reply has been filed.

29.8.03

1.9.2003 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.

The Hon'ble Mr. K.V. Prahaladan Administrative Member.

Heard Mr. S. Sarma, learned counsel for the applicant and also Mr. B.C. Pathak, learned Addl. C.G.S.C. for the respondents.

The application is admitted, call for the records keeping open question of limitation.

The respondents are directed to file written statement within four weeks from today.

List again on 25.9.2003 for orders.

No. W/S has been filed.

24.9.03

Member Vice-Chairman

mb

25.9.2003 Four weeks time is allowed to the respondents to file written statement on the prayer made by Mr.B.C.Pathak, learned Addl.C.G.S.C.

List the case on 29.10.2003 for order.

No written statement has been filed.

28.10.03

Member Vice-Chairman

bb

29.10.2003 On the prayer made by Mr.B.C.Pathak, learned Addl.C.G.S.C. further four weeks time is granted to the respondents to file written statement.

List the case on 2.12.2003 for order.

No. W/S has been filed.

22.12.03

Member Vice-Chairman

bb

O.A. 157/2003

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23.12.2003 Present : The Hon'ble Mr. Justice B. Panigrahi, Vice-Chairman

The Hon'ble Mr. K.V. Prahladan, Member (A).

Prayer has been made on behalf of Mr. B.C. Pathak, learned Addl. C.G.S.C. for the respondents to file written statement. Let the written statement be filed positively within four weeks failing which no written statement will be accepted. Rejoinder, if any, be filed within two weeks after the service of copy of the written statement.

Let it appear in the next available Division Bench.

Member Vice-Chairman

mb

No written statement has been filed.
24.2.04

25.2.2004 Present: Hon'ble Shri Shanker Raju, Judicial Member

Hon'ble Shri K.V. Prahladan Administrative Member.

Heard the learned counsel for the parties. Hearing concluded. Order rserved.

Member(A) Member(J)

nkm

11.3.04
Copy of the Judgment has been sent to the Ofsec. for issuing the same to the applicant as well as to the Addl CGSC for the Respdn.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.100 of 2003
With

Original Application No.157 of 2003

Date of decision: This the 26th day of February 2004

The Hon'ble Shri Shanker Raju, Judicial Member

The Hon'ble Shri K.V. Prahladan, Administrative Member

O.A.No.100/2003

Aibuddin Ahmed
S/o Late Rabiruddin Ahmed
Working as Work Charged Khalasi
Under D(S) K Subdivision,
Central Water Commission,
Nagaon. .....Applicant
By Advocates Mr S. Sarma and Ms U. Das

- versus -

1. The Union of India,
   Represented by Chairman
   Central Water Commission,
   New Delhi.
2. The Director,
   Central Water Commission,
   New Delhi.
3. The Superintending Engineer
   Hydrological Observtion Circle,
   Adabari, Guwahati.
4. The Executive Engineer
   Central Water Commission,
   Upper Brahmaputra Division,
   Dibrugarh.
5. The Executive Engineer
   Middle Brahmaputra Division,
   Central Water Commission,
   Guwahati. .....Respondents

By Advocate Shri B.C. Pathak, Addl. C.G.S.C.

O.A.No.157/2003

Anima Talukdar
D/o Late Tapan Talukdar
Casual Worker
Working under the Executive Engineer,
Middle Brahmaputra Division,
Central Water Commission,
Adabari, Guwahati. .....Applicant
By Advocates Shri S. Sarma and Ms U. Das.

- versus -

1. The Union of India, represented by the
   Chairman, Central Water Commission,
   New Delhi.

2. The Director,
   Central Water Commission,
   New Delhi.
3. The Superintending Engineer
   Hydrological Observation Circle,
   Adabari, Guwahati.
4. The Executive Engineer,
   Central Water Commission,
   Middle Brahmaputra Division,
   Guwahati. .....Respondents

By Advocate Mr B.C. Pathak, Addl. C.G.S.C.

.....

O R D E R

SHANKER RAJU, MEMBER (J)

As the facts and law raised are identical the O.A.s are disposed of by this common order.

2. The applicant in O.A.No.100 of 2003 had earlier approached this Tribunal in O.A.249 of 1993. Having regard to their working till 1992 directions have been issued by the Tribunal on 7.12.1993 to appoint them as Khalasis against available vacancies or in the alternative be appointed as casual workers in the seasonal works. As the services of the applicants was to be dispensed with, R.A. 15 of 1994 filed by the applicants was disposed of on 28.6.1994 with a direction to the respondents not to terminate their services and to consider them for regularisation in Group 'D' post in terms of O.M. dated 10.9.1993.

3. Subsequently, complying with the directions of the court the respondents have framed a Scheme known as "Grant of Temporary Status and Regularisation of Seasonal Khalasis in the Work Charged Establishment of Central Water Commission, 1997". This Scheme was to be in effect

from 1.6.1997. Accordingly by an order dated 5.5.2003 the applicants have been re-engaged as Work Charged Seasonsl Khalasis int he scale of pay of 2550-3200. The Scheme stipulated that whosoever has completed 120 days of service prior to commencement of the Scheme would be conferred with temporary status and on availability of posts would be regularised.

4. The applicant in O.A.157 of 2003 earlier filed O.A.201 of 1993 which was disposed of by this Tribunal on 16.11.1993 with directions to the respondents to dispose of the application for regulrisation of the applicant. On review in R.A.13 of 1993, by an order dated 28.6.1994 directions have been issued to the respondents not to terminate her service and consider her for regularisation in Group 'D' post. Being aggrieved with the Scheme ibid, a direction has been sought for to accord her the benefit of the 1993 Scheme.

5. In the above O.A.s treating the applicants as casual workers directions have been issued to consider their cases under the DOPT's Scheme of 10.9.1993.

6. Learned counsel for the applicants states that once they have been absorbed as casual workers the Scheme of 1997 would not apply and their cases ought to be considered under the DOPT's Scheme of 10.9.1993 as they completed the requisite period of service.

7. On the other hand the respondents have filed their reply in O.A.100/2003 and adopted the same in O.A.157/2003 as despite our orders no reply has been filed in O.A.157/2003.

8. The learned counsel for the respondents contends that the applicants were engaged on Work Charged Establishment as Seasonal Khalasis and the Scheme of DOPT of 10.9.1993 would not apply to such Work Charged Seasonal Khalasis as the staff does not belong to regular establishment of the Department and their payment is borne out from projects. Accordingly it is stated that a decision has been taken to frame the Scheme of 1997 in which the case of the applicants for grant of temporary status has been considered and for regularisation as per the Scheme their cases would be considered.

9. We have carefully considered the rival contentions of the parties and perused the materials on record. As per decision of the Full Bench in Mahabir and others Vs. Union of India and others, 1997-2001 Administrative Tribunal Full Bench Judgments 99, a casual labourer is a person who has been engaged for execution of work on emergent basis of a temporary nature. Their services are dispensed with the moment the work at hand is completed. Moreover, a casual worker is a worker who has been asked to perform duties of a casual nature and is not a regular employee. Moreover, it is no more res integra that the cases of the applicants in hand had proceeded in review on the premises that they are casual workers. Accordingly directions have been issued not to terminate their services and consider they for engagement for regularisation under DOPT's Scheme of 10.9.1993. The Scheme of 10.9.1993 envisages casual worker with temporary status eligible for regularisation.

10. We find that the decision in the Review Application has not been carried to the High Court and has

attained.....

attained finality. Accordingly, giving new interpretation to the status of the applicants would amount to sitting over the decision of the Tribunal in a co-ordinate Bench. Accordingly, we hold that once the Tribunal earlier in review has assigned nomenclature of casual employee to the applicants and they had worked for the requisite days and on employment as on 1.9.1993 the Scheme of DOPT of 10.9.1993 is applicable and as per directions of the Tribunal (Supra) is to be applied to them.

11. In the result the O.A.s are partly allowed and the impugned orders are quashed. The respondents are directed to treat the cases of the applicants beyond the Scheme of 1997 and be considered under the DOPT's scheme of 10.9.1993 within a period of two months from the date of receipt of a copy of this order. However, such consideration shall be strictly in accordance with the provisions of the DOPT's Scheme of 10.9.1993 as well as suitability of the applicants to the post.

Copy of this order be placed on record of each case.

(K. V. PRAHLADAN)
ADMINISTRATIVE MEMBER

(SHANKER RAJU)
JUDICIAL MEMBER

nkm

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case : O.A. No. 157 of 2003

BETWEEN

Anima Talukdar

..... Applicant.

AND

Union of India & ors..... Respondents.

I N D E X

****

Filed by : Usha Das Regn.No.:

File :c:\WS\ANIMAT Date :

Filed by the applicant through Usha Das Advocate 30/6/03

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A.No. 157 of 2003

Anima Talukdar
..... Applicant

-VS-

Union of India & Ors.
..... Respondents

List of dates

1.	28.6.1994	Judgment and order passed in R.A. No. 13/93.
2.	7.12.1993	Order passed in OA No.249/93 in Md. Aibuddin Ahmed -vs- Union of India & ors.
3.	28.6.1994	Order pas sed in RAs No.15, 16, 3 and 4 of 94.
4.	7.6.1994	OM in respect of recruitment of casual workers and persons on daily wages review of policy.
5.	10.9.1993	OM in respect of grant of temporary status and regularisation of casual workers-Formulation of a scheme in pursuance of the CAT, Principal Bench, New Delhi, judgment dated 16th Feb, 1990 in the case of Raj Kamol & ors -vs- Union of India & Ors.
6.	9.10.97	Order extending the benefit of the "Grant of Temporary Status and Regularisation of Seasonal Khalasi in workcharged establishment of Central Water Commission 1997," to the applicant.
7.	26.11.1997	Order passed by Respondent No.3 withdrawing the benefits of the scheme of 1997 which had been extended to the applicant in pursuent to the order dated 9.10.97.
8.	6.10.1997	Order passed by the respondents granting the benefit of the scheme of 1997 to Md. Aibuddin Ahmed.
9.	27.11.1997	Order passed by the respondents withdrawing the benefit of the scheme of 1997 which had been extended to Md. A. Ahmed in pursuent to the order dated 6.10.1997
10.	4.6.2002	Order regularising the service of the applicant as Seasonal Khalasi.

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Filed by the applicant through Asha Das Advocate 30/6/03

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An application under section 19 of the Central Administrative Tribunal Act.1985)

O.A.No. 157 of 2003

BETWEEN

Anima Talukdar
D/o Late Tapan Talukdar
Casual Worker
Working under the Executive Engineer
Middle Brahmaputra Division
Central Water Commission
~~Adabari Bus Stand~~
Central Water Commission Complex
Guwahati - 14 ..... Applicant.

- AND -

1. The Union of India.
   Represented by the Chairman,
   Central Water Commission,
   R. K. Puram, New Delhi.

2. The Director,
   Central Water Commission,
   New Delhi-66

3. The Superintending Engineer,
   Hydrological Observation Circle,
   Adabari, Guwahati- 781014.

4. The Executive Engineer
   Central Water Commission
   Middle Brahmaputra Division
   Rajgarh Road, Guwahati - 7.

..... Respondents.

DETAILS OF THE APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THIS APPLICATION IS MADE:

This application is not directed against any particular order but has been made against the action of the Respondents in not regularising the service of the applicant

A Talukdar

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in terms of the scheme dated 7.6.88 and its subsequent clarification dated 10.9.1993. This application is also directed against the action of the respondents in ignoring the case of the applicant in the matter of regularisation while the services of similarly situated employees have been regularised.

2. LIMITATION:

The applicant declares that the instant application has been filed within the limitation period prescribed under section 21 of the Central Administrative Tribunal Act.1985.

3. JURISDICTION:

The applicant further declares that the subject matter of the case is within the jurisdiction of the Administrative Tribunal.

4. FACTS OF THE CASE:

4.1. That the applicant is a citizens of India and as such they are entitled to all the rights, privileges and protection as guaranteed by the Constitution of India and laws framed thereunder.

4.2. That the applicant got her initial appointment in the Central Water Commission, Middle Brahmaputra Division in the year 1984 and in the said capacity she is continuing till date under the respondents without any break. The applicant in response to an advertisement issued by the

A Talukdar

respondents applied for the said post. The respondents selected the applicant for the said post of Casual Worker in terms of an interview. After the said interview the applicant got her initial appointment as Casual Worker in the Middle Brahmaputra Division,,Guwahati. The applicant during her service tenure had occasion to serve even in the Group-C post. Although her initial appointment was as Casual Worker but in reality she served under the respondents as a regular Group-D employee. The respondents have also extended her the benefit of bonus like regular Group-D employee.

4.3. That the applicant since 1984 has been discharging her duties to the satisfaction of all concern without any blemish from any quarter. The applicant during her service tenure kept on representing her case for regularisation but same availed no result in positive. The service of the applicant was sought to be discontinued w.e.f. 15.10.93 by issuing an OM dated 4.5.93. The applicant seeking a relief against the said OM dated 4.5.1993 approached the Hon'ble Court by way of filing OA No. 201/93 before this Hon'ble Tribunal. The Hon'ble Tribunal after hearing the parties to the proceeding was pleased to dispose of the said OA vide judgment and order dated 16.11.1993 directing the respondents to appoint the applicant as Khalasi against available vacancies and in absence of available regular vacancies or till availability of such vacancy the respondents should appoint her as Casual Worker. The applicant thereafter filed a review application No. 13/93 against the aforesaid judgment and order dated 16.11.93 on the ground that the OMs regarding regularisation of the services of the Casual Workers dated 7.6.88 and OM dated

A Talukdar

10.9.93 could not be brought before the notice of the Hon'ble Tribunal. The Hon'ble Tribunal on hearing the Review Application was pleased to allow the said RA vide judgment and order dated 28.6.94 with a direction to allow the applicant to continue in her service without any break and to consider her case that regularisation in terms of 10.9.93.

A copy of the judgment and order dated 28.6.94 is annexed herewith and marked as Annexure-1.

4.4. That the applicant begs to statement along with the applicant there were other two Casual Workers namely Md. Aibuddin Ahmed and Md. Babul Ali also preferred OA preferred OA No. 248/93 and OA No. 249/93 respectively before the Hon'ble Tribunal. And the Hon'ble Tribunal was pleased to dispose of the aforesaid OAs in the light of the judgment dated 16.11.93 passed in OA No. 201/93. The aforesaid 2 employees also preferred Review Applications before the Hon'ble Tribunal (RA No. 15/94 and RA-1/94) seeking review of the judgments passed in OA No. 248/93 and OA No. 249/93 dated 7/12/93. The respondents also preferred Review Applications (RA No.3/94 and RA No.4/94) in their cases. The Hon'ble Tribunal after hearing all the matters together vide its judgment and order dated 28.6.94 allowed the Review Application filed by the aforesaid two Casual Workers and dismissed the Review Application filed by the respondents.

Copies of the judgment dated 7.12.93 in OA Nos 248/249 of 93 and the judgment and order dated 28.6.94 passed in the RAs No. 15, 16, 3 and

A Talukdar

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4 of 94 are annexed herewith and marked as Annexure-2 and 3 respectively.

4.5. That the applicant kept on representing her case for regularisation of her service in terms of OMs dated 7.6.88 and Om dated 10.9.93, but the Respondents apart from assurances never passed any other granting the benefit of the said scheme to the present applicant. The applicant as stated above got her initial appointment in the year 1984 and she is continuing as such till the date of filing of this OA without any break. It is noteworthy to mention here that the applicant fulfills all the required qualifications as described in the aforesaid OMs dated 7.6.88 and 10.9.93.

Copies of the OMs dated 7.6.2000 and 10.9.93 are annexed herewith and marked as Annexure 4 & 5 respectively.

4.6. That the applicant states that the respondents kept on assuring her regarding regularisation of her service but till date the respondents are yet to implement the judgment of the Hon'ble Tribunal. It is stated that in the office of the respondents there are available vacancy in the Group-D cadre and the respondents could very well accommodate the applicant against any of such vacancy. The applicant was under the bonafide belief that her services would be regularisation in due time but when nothing came out in positive the applicant started representing her case praying for regularisation of her service. But as usual noting was communicated to her.

A Talukdar

4.7 That the applicant begs to state that under the respondents there are some Casual Workers performing seasonal nature of Work from the month of May to October in a particular year. Under the respondents there are other set of Casual Workers who used to work through out the year without any break. However, in respect of the Casual Workers who performs duty in a particular year no scheme was available towards regularisation of their services. Some of such workers approached the Hon'ble Tribunal by way of filing various OAs seeking regularisation of their services . The Hon'ble Tribunal while disposing of those OAs directed the respondents to prepare a scheme for those casual workers who used to perform duty from the month of May to October. The respondents implemented the judgment passed by this Hon'ble Tribunal by preparing a scheme in the year 1997. The said scheme of 1997 came into effect from 1.6.97.

The application inspite of her best effort could not collect copy of the said scheme and thereafter prays before this Hon'ble Tribunal for production of the same at the time of hearing of this case.

4.8 That the respondents thereafter issued an order dated 9.10.97 by which she was granted the benefit of the said scheme of 1997. The effect of extending the benefit of the said scheme has been made w.e.f. 1.6.97 that is, from the date of commencement of the said scheme.

A copy of the said order dated 9.10.97 is annexed herewith and marked as Annexure-6.

A Talukdar

4.9 That the applicant states that since her initial appointment she has been performing her duties as a Casual Worker and she has been performing her duty through out the years. Unlike the other set of casual workers who used to perform duty from the month of May to October in a particular year. The applicant since 1984 has been performing her duty as reflected in Annexure-1 judgment (para-6) and same is continuing till date without any break. The respondents ought to have granted her the benefit of the scheme of 1988 and 1993 instead of granting her the benefit of the scheme of 1997. Admittedly the applicant was in employment at the time of issuance of the 1988 scheme as well as the 1993 scheme and she had the requisite qualification for receiving all the benefits flown from the said schemes. In fact, that was for the precise reason for which the Hon'ble Tribunal was pleased to allow the Review Application by Annexure-1 judgment directing the Respondents to regularise her service in terms the said schemes.

4.10. That the applicant states that immediately after issuence of the Annexure-6 order dated 9.10.1997. She approached the Respondent No.3 and made it known to the fact that she is a Casual Worker since 1984 and she used to work through out the year unlike the seasonal khalasis. The authority concerned issued an order dated 26.11.97 by which the benefit granted to the applicant in terms of the order dated 9.10.97 (Annexure-6) declared as withdrawn. The said authority realised the fact that the present applicant is not a seasonal khalasi but a Casual Worker.

A Talukdar

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A copy of the said order dated 26.11.97 is annexed herewith and marked as Annexure-7.

4.11. That the applicant states that in case of said Md. Aibuddin Ahmed also the respondents issued with a similar order dated 6.10.97 granting him the benefit of the scheme of 1997 w.e.f. 1.6.97. Said Md. Aibuddin Ahmed represented the matter before the concerned authority praying for cancellation of the said order. The respondents acting on his representation issued an order dated 27.11.97 withdrawing the order granting him the benefit of 1997 scheme on the ground that his case is covered by the scheme of 1988 and the scheme of 1993.

Copies of the said orders dated 6.10.97 and 27.11.97 are annexed herewith and marked as Annexure-8 and 9 respectively.

4.12. That the respondents somehow delayed the matter of her regularisation and kept on assuring her regarding regularisation. The respondents knowing fully well about the existence of the Annexure-1 judgment kept on violating the same without any valid reason. It is noteworthy to mention here that the respondents now issued an order dated 4.6.2002 intimating her regarding the progress of her regularisation matter.

A copy of the order dated 4.6.2002 is annexed herewith and marked as Annexure-10.

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4.13. That the applicant begs to state that taking into consideration her service and the mode of employment she is entitled to be considered under schemes of 1988 and 1993 as she fulfills all the required qualification prescribed in the said scheme. Apart from that the Hon'ble Tribunal in Annexure-1 judgment categorically directed the respondents to regularise her service in terms of the aforesaid two schemes but since no time limit was fixed in the said judgment the respondents now issuing various orders sought to delay the matter regarding regularisation of her service and at the same time the respondents have started the process of regularisation of Casual Workers recruited during the year 1994, 1995 and 1996. The applicant submitted number of representations to the concerned authority but same yielded no result in positive. Situated thus the applicant now has come before this Hon'ble Tribunal seeking an appropriate relief.

4.14. That this application has been filed bonafide and to secure ends of justice.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the respondents have acted illegally in not regularising the service of applicant inspite of there being categorical direction from the Hon'ble Tribunal and as such the action/inaction on the part of the respondents are liable to be set aside and quashed.

A Talukdar

5.2. For that the respondents have acted illegally in not conferring temporary status to the present applicant as per the 1988 and 1993 scheme, even after Annexure-1 judgment. Therefore the respondents may be directed to implement the judgment (Annexure-1) within a stipulated period.

5.3. For that the respondents have acted illegally in not granting her the benefit of 1998 and 1993 schemes although she works throughout the year unlike the seasonal workers and more so when such benefit has been withdrawn from her. The respondents instead of delaying the matter for one reason and another ought to have implemented the judgment (Annexure-1) by granting her the benefit of 1988 and 1990 scheme.

5.4. For that the Respondents have violated the judgment passed by the Hon'ble Tribunal in not granting her the benefit of the schemes of 1988 and 1993 and as such appropriate contempt proceeding need be issued against the respondents for their willful and deliberate violation of the said judgment and to punish them severely.

5.5. For that the respondents have acted contrary to the provisions contained in various guidelines issued by the Govt. of India in denying the said benefit of the schemes of 1988 and 1993 to the present applicant and as such appropriate direction need be issued to the respondents for granting her all the permissible benefit of the said schemes with retrospective and to regularise his service,

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from the date when she became eligible with all consequential service benefits etc.

5.6. For that in any view of the matter the impugned action of the respondents are not sustainable in the eye of law and liable to be set aside and quashed.

The applicant craves leave of the Hon'ble Tribunal to advance more grounds both legal as well as factual at the time of hearing of the case.

6. DETAILS OF REMEDIES EXHAUSTED:

That the applicant declares that he has exhausted all the remedies available to her and there is no alternative remedy available to her.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT:

The applicant further declares that she has not filed previously any application, writ petition or suit regarding the grievances in respect of which this application is made before any other court or any other Bench of the Tribunal or any other authority nor any such application , writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above, the applicant most respectfully prayed that the instant application be admitted records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of records, be grant the following reliefs to the applicant:-

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8.1. To direct the Respondents to extend all the benefits of 1988 and 1993 scheme to the present applicant with retrospective effect, with all consequential service benefits including arrear salary and seniority etc. and to regularise her service as per the direction contained in the Annexure-1 judgment, with retrospective effect, i.e. from the date when she became eligible, with all consequential service benefits etc.

8.2. To draw up contempt proceeding against the respondents for their willful and deliberate violation of the judgment and order dated 28.6.94 passed in RA No. 13/93 and to punish them severely for such action.

8.3. Cost of the application.

8.4. Any other relief/reliefs to which the applicant is entitled to under the facts and circumstances of the case and deemed fit and proper.

9. INTERIM ORDER PRAYED FOR:

Pending disposal of this application the applicant prays for an interim order directing the respondents not to discharge her from her present employment and to allow her to continue in her service.

10. .....

11. PARTICULARS OF THE I.P.O.:

1. I.P.O. No. : 8G 488702
2. Date : 1/7/03
3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

A Talukdar

VERIFICATION

I, Miss Anima Talukdar, aged about 37 years, daughter of Late Tapan Talukdar, working as Casual Worker, under the Middle Brahmaputra Division, Guwahati, do hereby solemnly affirm and verify that the statements made in paragraphs 1-4.1, 4.2, 4.6, 4.9, 4.13 & 5 to 12 are true to my knowledge and those made in paragraphs 4.3-4.5, 4.7, 4.8, 4.10-4.12 are also true to my legal advice an d the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 28th day of June of 2003.

(Mrs. Anima Talukdar)
Signature.

ANNEXURE- 1,5

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Review Application No. 13 of 1993

Date of decision: This the 28th day of June 1994

Hon'ble Justice Shri S. Haque, Vice-Chairman

Hon'ble Shri G.L. Sanglyine, Member (Administrative).

Miss Anima Talukdar .... Applicant

By Advocate Shri B.K. Sharma and
Shri M.K. Choudhury

-versus-

Union of India and Others .... Respondents

By Advocate Shri S. Ali, Sr. C.G.S.C.

....

Attested
Advocate.

ORDER

Smt Anima Talukdar has filed this Review Application praying to convert the order dated 16.11.1993 of O.A.No.201/93 into a direction to regularise her service in Group 'D' post on the ground that the r-elevant office memorandum/circulars concerning regularisation of services of casual employees could not be placed before the Tribunal on 16.11.1993. Copies of the office memorandum have been annexed with the Review Application. The respondents resisted the prayer for review by filing written objection stating that the applicant became a retrenched worker and can get reappointment in order of seriality/preference in the retrnched workers list.

2. The applicant was serving as Work Charge Khalasi (Casual Worker) in the Central Water Commission, Middle Brahmaputra Division, Guwahati since 1984. The last appointment order under Mrmorandum No.MBD/WC/ESTT-24(A)/93/3160-71 dated 4.5.1993 indicated that the appointment was adhoc and would not continue beyond 16.10.1993. Therefore, she filed that application(O.A.No.201/93) for regularisation of service. Assuming the applicant to be a retrenched employee, the Tribunal vide order dated 16.11.1993 disposed of O.A.No.201/93 directing the respondents to consider her appointment against available vacancy in order of seriality of retrenched persons list.

3. Learned counsel Mr B.K. Sharma on behalf of the applicant submits that she had acquired temporary status by serving for 240 days prior to 7.6.1988 in one year and thereafter also she served in successive years similarly and thereby became eligible for regularisation

Attested
Advocate.

in Group 'D' post. Relevant office memorandum/circulars have been referred to in support of his submissions. Learned Sr. C.G.S.C. Mr S. Ali submits that she was not eligible for regularisation and can only be considered for reengagement in order of preference in the retrenched workers list. The policies in the office memorandum/circulars referred to in this case have not been disputed.

4. The office memorandum No.49014/4/90-Estt(C) dated New Delhi the 8.4.1991 of the Government of India, Ministry of Personnel, Public Grievances and Pension relates to Regularisation of Services of Casual Workers in Group 'D' posts - Relaxation of Employment Exchange Procedure and Upper Age limit. This has referred to O.M.No.49014/4/77-Estt(C) dated 21.3.1979 and further expressed that the previous policies with regard to engagements, remuneration and regularisation of Casual Workers in Central Government Offices have been reviewed from time to time and detailed guidelines in these matters were issued vide office memorandum No.49014/2/86-Estt(C) dated 7.6.1988. It also contained that in view of the fact that the Casual Employees belong to the economically weaker sections of the society and termination of their services would naturally cause undue hardship and therefore, as a one time measure it was decided that casual workers recruited before 7.6.1988 and who are in service on the date of issue of these instructions may be considered for regular appointment to Group 'D' post, in terms of general instructions, even if they are recruited otherwise than through the Employment Exchange and had crossed upper age limit prescribed for the post, provided that they are otherwise eligible for regular appointment in all other aspects. It was further reiterated

that....

that recruitment of casual workers in Central Government offices are to be regulated strictly in accordance with the guidelines contained in the department's O.M.No.49014/2/86-Estt(C) dated 7.6.1988.

5. It was further notified vide office memorandum No.51016/2/90-Estt(C) dated New Delhi the 10.9.1993 that the policy under O.M. dated 7.6.1988 had further been reviewed in the light of the judgment of C.A.T., New Delhi dated 16.2.1990, wherein it was decided that while the existing guidelines in O.M. dated 7.6.1988 may continue to be followed, the grant of temporary status to the casual employees who are presently employed and have rendered one year of continuous service in Central Government offices (excluding Telecom, Posts and Railways) may be regulated by the scheme, namely, 'Casual Labourers (Grant of Temporary Status of Regulation Scheme) of Government of India 1993' of the department of Personnel and Training which came into force with effect from 1.9.1993. It was specifically mentioned in the O.M. dated 10.9.1993 (para 2) that the appointing authority should ensure that recruitment of casual workers is done in accordance with the guidelines under O.M. dated 7.6.1988. In Clauses 4(I) and 4(II) of the Scheme 1993 provide that temporary status would be conferred on all casual labourers who are in employment on 10.9.1993 and who have rendered a continuous service on atleast one year, i.e. engaged for atleast 240 days (206 days for offices observing 5 days week); and that such acquirement of temporary status would be without reference to the creation/availability of regular Group 'D' posts. The instructions in the Scheme 1993 have conferred/ declared....

Attested
Advocate

declared the right and privileges/benefits to the casual workers including the procedure of regularisation in Group 'D' posts. All policies/provisions in the casual labourers Scheme of 1993 are in addition to the guidelines in O.M. dated 7.6.1988.

6. The applicant, Smt A. Talukdar did serve under the respondents in the Central Water Commission, Middle Brahmaputra Division, Guwahati since 1984 and her periods (days) of service in every year are as under:

1984	:	294 days	1989	-	390 days
1985 - 1986	:	245 days	1990	-	340 days
1987	:	330 days	1991	-	330 days.
1988	:	240 days			

In 1992 and 1993 also she served similarly under the respondents. But the appointing authority made artificial breaks in her service periods in order to delink continuity of service to her disadvantage. Such breaks cannot be encouraged, because it will be to the disadvantage of a casual labourer in service and may defeat his/her right and privilege including right of regularisation in service granted by the office memorandum/circulars issued by the Central Government from time to time for protection and privileges for casual labourers. We treat her entire service period as in continuity in each year in order to confer temporary status to her. She had worked for 240 days in a year prior to 7.6.1988 and thereafter also she worked similarly in successive years and thereby acquired temporary status. She became eligible for regularisation in terms of O.M. dated 10.9.1993/Scheme 1993 referred to above. She was not retrenched employee as claimed by the respondents. This being the position, our order dated 16.11.1993 deserves to be reviewed.

Attested
Advocate

7. The order dated 4.9.1993 of the respondents terminating service of the applicant from 16.10.1993 was arbitrary and bad in law because the applicant had already acquired temporary status. Again the office memorandum No.MBD/WC-Estt-24/93-6443-47 dated 16.10.1993 issued by the Executive Engineer (respondent No.3) terminating her service with effect from 16.10.1993(AN) was bad in law. However, the Executive Engineer (respondent No.3) again appointed the applicant, Smt A. Talukdar as Work Charge Saasonal Khalasi vide memorandum No.MBD/WC/Estt-24(A)/94/2542-51 dated 9.5.1994. Presently the applicant is serving pursuant to this appointment. The arbitrary and illegal termination of service orders dated 4.9.1993 and 16.11.1993 referred to above were liable to be quashed. But, no specific order of this nature is now required in view of her appointment in the service vide Memorandum No.MBD/WC/Estt-24(A)/94/2542-51 dated 9.5.1994.

8. This Review Application is allowed. The judgment/order dated 16.11.1993 in O.A.No.201/93 is hereby reviewed and the following directions are made:

The respondents are directed not to terminate the services of the applicant, Smt Anima Talukdar in future and shall regularise her service in Group 'D' post in terms of O.M. dated 10.9.1993/Casual Labourers Scheme 1993.

9. We make no order as to costs.

Sd/- S. HAQUE
VICE CHAIRMAN

Sd/- G.L.SANGLYINE
MEMBER (ADMN)

Certified to be true Copy
प्रमाणित प्रतिलिपि

17/7/94

Section Officer (J)
अनुभाग अधिकारी (न्यायिक शाखा)
Central Administrative Tribunal
केन्द्रीय प्रशासनिक अधिकरण
Guwahati Bench, Guwahati-5
गुवाहाटी न्यायपीठ, गुवाहाटी-5

Advocate.

ANNEXURE — 2

CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH, GUWAHATI

ORIGINAL APPLICATION NO.249 OF 1993

Md.Aiubuddin Ahmed ..... Applicant

-vs-

Union of India & ors..... Respondents

-PRESENT-

THE HON'BLE JUSTICE SHRI S.HAQUE, VICE CHAIRMAN
THE HON'BLE SHRI G.L.SANGLYINE, MEMBER(ADMN)
For the Applicant - Mr.A.Hai, Advocate
For the Respdts. - Shri S.Ali, Sr.C.G.S.C.

DATE	ORDER
7.12.93	Both these cases are taken up together for consideration and disposal as the cause of action and reliefs sought for are common in both the cases. Heard learned counsel A.Hai on behalf of applicants Md Babul Ali and Md Aiubuddin Ahmed. Also heard learned Sr.C.G.S.C Mr S.Ali. Counsel of the parties submit to dispose of these two cases with similar directions dated 16.11.1993 in O.A.20 /93. Both the applicants worked as Seasonal and Casual worker under the Executive Engineer, Middle Brahmaputra Division, Central Water Commission, Guwahati since 1982 to 1992. They were engaged in the work in every year as under :

Babul Ali 1982-86 154 days in every year
1987 340 days
1988 260 days
1989 319 days
1990 340 days
1991 330 days
1992 60 days upto February, 1992.

Aiubuddin Ahmed :
1983-87 154 days in every year.
1988 224 days
1989 319 days
1990 340 days
1991 330 days
1992 60 days upto February, 1992.

Now they had been retrenched from their service on 15.10.93. A list of retrenched persons had been prepared by the respondents. They have worked for long period and action to retrench them are not looked happy.

contd...

7.12.93 Upon hearing the counsel of the parties and considering the facts and circumstances including the representation dated 18.2.92 of the applicants, we direct the respondents to appoint both the applicants as Khalasi against available vacancies, and in absence of available regular vacancies or till availability of such vacancy, the respondents shall appoint them as Casual Workers in the seasonal works.

Both the applications are disposed of with the above directions.

Intimate all concerned.

Sd/-S.Haque
VICE CHAIRMAN

Sd/-G.L.Sanglyine
MEMBER(A)

Certified to be true Copy

Deputy Registrar (Judicial)
Central Administrative Tribunal
Guwahati Bench.

Attested
Advocate.

ANNEXURE - 3

33

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Review Application No.15 of 1994 (O.A.248/93)

Md Babul Ali . . . Applicant

- Vs -

Union of India & Ors. . . . Respondents.

Review Application No.16 of 1994 (O.A.249/93)

Md Aiubuddin Ahmed . . . Applicant

- Vs -

Union of India & Ors. . . . Respondents.

Review Application No.3 of 1994 (O.A.248/93)

- Vs -

Union of India & Ors. . . . Applicants.

- Vs -

Md Babul Ali . . . Respondent.

Review Application No. 4 of 1994 (O.A.249/93)

Union of India & Ors. . . . Applicants.

- Vs -

Md Aiubuddin Ahmed . . . Respondent.

Date of Order : This the 28th Day of June, 1994.

Justice Shri S. Haque, Vice-Chairman

Shri G.L. Sanglyine, Member (Administrative)

Md Babul Ali and Md Aiubuddin Ahmed

By Advocate Shri B.K.Sharma & B. Mehta.

Union of India & Ors.

By Advocate Shri S.Ali, Sr.C.G.S.C.

CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH

Attested

Advocate.

O R D E R

HAQUE J

Md. Babul Ali and Md. Aiubuddin Ahmed have filed the Review Applications No.15/94 and 16/94 respectively praying to convert the common direction dated 7.12.93 in O.A.248 and 249 of 1993 into a direction on respondents to regularise their services in Group-D posts on the ground that the relevant office memorandum/circulars concerning regularisation of services of casual employees could not be placed before the Tribunal on 7.12.93. On the other hand, the respondents have also filed Review Applications No.3/94 and No.4/94 praying to convert the common directions dated 7.12.93 into a direction for engaging the two applicants as retrenched casual employees in order of preference in the retrenched workers list.

2. The two applicants were serving as Work Charge Khalasi (Casual Worker) in the Central Water Commission, Middle Brahmaputra Division, Guwahati since 1982 and 1983 respectively. Their last appointment orders were under Memorandum No.MBD/WC/ESTT-24(A)/93/4266-70 dated 25.6.93 and Memorandum No.MBD/WC/ESTT-24(A)/93/3063-90 dated 3.5.93 respectively indicating that their appointments were adhoc and would not continue beyond 15.10.93. Therefore, they filed the applications No.O.A.248 and 249 of 1993 for regularisation of services. The Tribunal directed the respondents vide common order dated 7.12.93 to appoint both the applicants as Khalasi (Casual Worker) against available vacancies.

3. Learned counsel Mr B.K.Sharma on behalf of the applicants submit that they had acquired temporary status by serving for 240 days prior to 7.6.1988 in one year and thereafter also they served in successive years

Attested
Advocate

contd... 3/-

similarly and thereby became eligible for regularisation in Group 'D' post. Relevant Office Memorandum/Circulars have been referred to in support of his submissions. Learned Sr.C.G.S.C Mr S.Ali submits that they were not eligible for regularisation and can only be considered for reengagement in order of preference in the retrenched workers list. The policies in the office memorandum/circulars referred to in this case have not been disputed.

4. The office memorandum No.49014/4/90-Estt(C) dated New Delhi the 8.4.1991 of the Government of India, Ministry of Personnel, Public Grievances and Pension relates to Regularisation of Services of Casual Workers in Group 'D' posts - Relaxation of Employment Exchange Procedure and Upper Age limit. This has referred to O.M.No.49014/4/77-Estt(C) dated 21.3.1979 and further expressed that the previous policies with regard to engagements, remuneration and regularisation of Casual Workers in Central Government Offices have been reviewed from time to time and detailed guidelines in these matters were issued vide office memorandum No.49014/2/86-Estt(C) dated 7.6.1988. It also contained that in view of the fact that the Casual Employees belong to the economically weaker sections of the society and termination of their services would naturally cause undue hardship and therefore, as a one time measure it was decided that casual workers recruited before 7.6.1988 and who are in service on the date of issue of these instructions may be considered for regular appointment to Group 'D'

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post, in terms of general instructions, even if they are recruited otherwise than through the Employment Exchange and had crossed upper age limit prescribed for the post, provided that they are otherwise eligible for regular appointment in all other aspects. It was further reiterated that recruitment of casual workers in Central Government offices are to be regulated strictly in accordance with the guidelines contained in the department's O.M.No.49014/2/86-Estt(C) dated 7.6.1988.

5. It was further notified vide office memorandum No.51016/2/90-Estt(C) dated New Delhi the 10.9.1993 that the policy under O.M. dated 7.6.1988 had further been reviewed in the light of the judgment of C.A.T.,New Delhi dated 15.2.1990, wherein it was decided that while the existing guidelines in O.M. dated 7.6.1988 may continue to be followed, the grant of temporary status to the casual employees who are presently employed and have rendered one year of continuous service in Central Government offices (excluding Telecom, Posts and Railway) may be regulated by the scheme, namely, 'Casual Labourers (Grant of Temporary Status of Regulation Scheme) of Government of India 1993' of the department of Personnel and Training which came into force with effect from 1.9.1993. It was specifically mentioned in the O.M. dated 10.9.1993 (para 2) that the appointing authority should ensure recruitment of casual workers is done in accordance with the guidelines under O.M. dated 7.6.1988. In Clauses 4(I) and 4(II) of the Scheme 1993 provide that temporary status would be conferred on all casual labourers who are in employment on 10.9.1993 and who have rendered a continuous

contd... 5/-

service on atleast one year, i.e. engaged for atleast 240 days (206 days for offices observing 5 days week); and that such acquirement of temporary status would be without reference to the creation/availability of regular Group 'D' posts. The instructions in the Scheme 1993 have conferred/declared the right and privileges/benefits to the casual workers included in the procedure of regularisation in Group 'D' posts. All policies/provisions in the casual labourers Scheme of 1993 are in addition to the guidelines in O.M. dated 7.6.1988.

6. The applicants Md. Babul Ali and Md. Aiubuddin Ahmed did serve under the respondents in the Central Water Commission, Middle Brahmaputra Division, Guwahati since 1984 and their periods (days) of service in every year are as under :

Md. Babul Ali		Md. Aiubuddin Ahmed	
1982 to 1986	- 154 days each year.	1983 to 87	- 154 days each year
1987	- 340 days	1988	- 224 days
1988	- 360 days	1989	- 319 days
1989	- 319 days	1990	- 340 days
1990	- 340 days	1991	- 330 days
1991	- 330 days.		

In 1992 and 1993 also they served similarly under the respondents. But the appointing authority made artificial breaks in their service periods in order to delink continuity of service to their disadvantage. Such breaks cannot be encouraged, because it will be to the disadvantage of a casual labourer in service and may defeat their right and privilege including right of regularisation in service granted by the office memorandum/circulars issued by the

contd... 6/-

Central Government from time to time for protection and privileges for casual labourers. We treat their entire service period as in continuity in each year in order to confer temporary status to them. They had worked for 240 days in a year prior to 7.6.1988 and thereafter also they worked similarly in successive years and thereby acquired temporary status. They became eligible for regularisation in terms of O.M. dated 10.9.1993/Scheme 1993 referred to above. They were not retrenched employees as claimed by the respondents. This being the position, our order dated 7.12.93 deserves to be reviewed.

7. The orders dated 25.6.93 and 3.5.93 of the respondents terminating the services of the applicants Md Babul Ali and Md Aiubuddin Ahmed beyond 15.10.93 were arbitrary and bad in law because they had already acquired temporary status. However, the Executive Engineer (respondent No.3) again appointed Md Babul Ali and Md Aiubuddin Ahmed vide Memorandum No.MBD/WC/ESTT-24(A)/94/2640-430 dated 11.5.94 and Memorandum No.MBD/WC/24(A)/94/2484-97 dated 4.5.94 as Work Charge Seasonal Khalasi and presently they are serving as such. The arbitrary and illegal termination of service orders dated 25.6.93 and 3.5.93 in respect of both the applicants referred to above were liable to be quashed. But, no specific order of this nature is now required in view of their appointment in the services vide Memorandum dated 11.5.94 and 4.5.94 referred to above.

8. These two Review Applications No.15/94 and 16/94 are allowed. The common judgment/order dated 7.12.93 in O.A.No.248 and 249 of 1993 are hereby reviewed and the following directions are made :-

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The respondents are directed not to terminate the services of the applicants Md Babul Ali and Md Aiubuddin Ahmed in future and shall regularise their services in Group 'D' posts in terms of O.M. dated 10.9.1993/Casual Labourers Scheme 1993.

9. Consequently, the Review Applications No.3/94 and 4/94 preferred by the respondents are dismissed.

10. We make no order as to costs.

11. Inform all concerned.

Sd/- S. HAQUE
VICE CHAIRMAN.

Sd/- G.L.SANGLYINE
MEMBER (ADMN).

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19/7/94

Section Officer (J)
Central Administrative Tribunal
Guwahati-5

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ::: GUWAHATI - 5

R.A. 4/94 (O.A.243/93)

Union of India & Ors. ... Petitioners

-VS-

Md. Abdul Un Ahmed ... Respondent

PRESENT

THE HON'BLE JUSTICE SHRI S. HAQUE, VICE CHAIRMAN,

THE HON'BLE SHRI G. L. SANGLYINE, MEMBER (ADMN.).

For the Petitioners ... Mr. G. Ali, Sr.C.G.S.C.

For the Respondent ... Mr. B.K. Sharma,
Mr. S. Mahta.

DATE	ORDER
28.6.94	This Review Application is covered vide judgment recorded in R.A. No. 15/94. Review Application is dismissed vide common judgment passed today, the 28.6.94.

Sd/- S. HAQUE
VICE CHAIRMAN

Sd/- G.L.SANGLYINE
MEMBER (ADMN)

TRUE COPY
HAQUE

19/7/94
Section Officer (J)
Central Administrative Tribunal
Guwahati Bench

Attested
Advocate.

[illegible] Department of [illegible] dated 7th June, 1988

(XIII)

Subject : Recruitment of casual workers and persons on daily wages - Review of policy.

The policy regarding engagement of casual workers in Central Government offices has been reviewed by Government keeping in view the Judgement of the Supreme Court delivered on the 17th January, 1986 in the Writ Petition filed by Shri Surinder Singh and others vs. Union of India and it has been decided to lay down the following guidelines in the matter of recruitment of casual workers on daily wage basis:-

i) Persons on daily wages should not be recruited for work of regular nature.

ii) Recruitment of daily wagers may be made only for work which is of casual or seasonal or intermittent nature or for work which is not of full time nature, for which regular posts cannot be created.

iii) The work presently being done by regular staff should be reassessed by the administrative Departments concerned for output and productivity so that the work being done by the casual workers could be entrusted to the regular employees. The Departments may also review the norms of staff for regular work and take steps to get them revised, if considered necessary.

iv) Where the nature of work entrusted to the casual workers and regular employees is the same, the casual workers may be paid at the rate of 1/30th of the pay at the minimum of the relevant pay scale plus dearness allowance for work of 8 hours a day.

Attested
Advocate

v) In cases where the work done by a casual worker is different from the work done by a regular employee, the casual worker may be paid only the minimum wages notified by the Ministry of Labour or the State Government/ Union Territory Administration, whichever is higher, as per the Minimum Wages Act, 1948. However, if a Department is already paying daily wages at a higher rate, the practice could be continued with the approval of its Financial Adviser.

vi) The casual workers may be given one paid weekly off after six days of continuous work.

vii) The payment to the casual workers may be restricted only to the days on which they actually perform duty under the Government with a paid weekly off as mentioned at (vi) above. They will, however, in addition, be paid for a National Holiday, if it falls on a working day for the casual workers.

viii) In cases where it is not possible to entrust all the items of work now being handled by the casual workers to the existing regular staff, additional regular posts may be created to the barest minimum necessary, with the concurrence of the Ministry of Finance.

ix) Where work of more than one type is to be performed throughout the year but each type of work does not justify a separate regular employee, a multifunctional post may be created for handling those items of work with the concurrence of the Ministry of Finance.

x) The regularisation of the services of the casual workers will continue to be governed by the instructions issued by this Department in this regard. While considering such regularisation, a casual worker may be given relaxation in the upper age limit only if at the time of initial recruitment as a casual worker, he had not crossed the upper age limit for the relevant post.

Attested
Advocate.

If any Department wants to make any departure from the above guidelines, it will obtain the prior concurrence of the Ministry of Finance and the Department of Personnel and Training. All the Administrative Ministries/ Deptts. should undertake a review of appointment of casual workers in the offices under their control on a time-bound basis so that at the end of the prescribed period, the following targets are achieved:-

a) All eligible casual workers are adjusted against regular posts to the extent such regular posts are justified.

b) The rest of the casual workers not covered by (a) above and whose retention is considered absolutely necessary and is in accordance with the guidelines, are paid emoluments strictly in accordance with the guidelines.

c) The remaining casual workers not covered by (a) and (b) above are discharged from service.

2. The following time limit for completing the review has been prescribed in respect of the various Ministries/ Deptts.:-

a)	Ministry of Railways	2 Years
b)	Department of Posts, Department of Telecommunications and Department of Defence Production	1 Year
c)	All other Ministries/Deptts./Offices	6 months

Attested
Advocate

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Each Ministry should furnish a quarterly statement indicating the progress of the review in respect of the Ministry (Proper) and all Attached/ Subordinate offices under them to the Department of Personnel and Training in the proforma attached. The first quarterly return should be furnished to this Department by the 10th October, 1988.

3. By strict and meticulous observance of the guidelines by all Ministries/ Deptts, it should be ensured that there is no more engagement of casual workers for attending to work of a regular nature, particularly after the review envisaged above is duly completed. Each Head of Office should also nominate an officer who would scrutinise the engagement of each and every casual worker and the job for which he is being employed to determine whether the work is of casual nature or not.

4. Ministry of Finance etc. are requested to bring the contents of this Office Memorandum to the notice of all the appointing authorities under their respective administrative control for strict observance. Cases of negligence in the matter of implementing these guidelines should be viewed very seriously and brought to the notice of the appropriate authorities for taking prompt and suitable action against the defaulters.

Sd/- D.P. Bagchi
Joint Secretary to the Government of India

*Annexure not printed.

Attested

Advocate

ANNEXURE - 5

- 34 -

Ministry of Personnel, P.G. and Pensions (Deptt. of Personnel and Training) OM No.51016/2/90-Estt.(C) dated 10th September, 1993

(XVIII)

Subject : Grant of temporary status and regularisation of casual workers - Formulation of a scheme in pursuance of the CAT, Principal Bench, New Delhi, Judgement dated 16th Feb. 1990 in the case of Raj Kamal & Others Vs UOI.

The guidelines in the matter of recruitment of persons on daily-wage basis in Central Government offices were issued vide this Department's OM No. 49014/2/86-Estt.(C) dated 7.6.88. The policy has further been reviewed in the light of the judgement of the CAT, Principal Bench, New Delhi delivered on 16.2.90 in the writ petition filed by Shri Raj Kamal and Others Vs. Union of India and it has been decided that while the existing guidelines contained in OM dated 7.6.88 may continue to be followed, the grant of temporary status to the casual employees, who are presently employed and have rendered one year of continuous service in Central Government offices other than Deptt. of Telecom, Posts and Railways may be regulated by the scheme as appended.

2. Ministry of Finance etc. are requested to bring the scheme to the notice of appointing authorities under their administrative control and ensure that recruitment of casual employees is done in accordance with the guidelines contained in OM dated 7.6.88. Cases of negligence should be viewed seriously and brought to the notice of appropriate authorities for taking prompt and suitable action.

Sd/- Y.G. Parande
Director

ANNEXURE 'P'

- 35 -

APPENDIX

Department of Personnel and Training, Casual Labourers (Grant of Temporary Status and Regularisation) Scheme

1. This Scheme shall be called "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Government of India, 1993."

2. This Scheme will come into force w.e.f. 1.9.1993.

3. This Scheme is applicable to casual labourers in employment of the Ministries/Departments of Government of India and their attached and subordinate offices, on the date of issue of these orders. But it shall not be applicable to casual workers in Railways, Department of Telecommunication and Department of Posts who already have their own schemes.

4. Temporary Status

i) Temporary status would be conferred on all casual labourers who are in employment on the date of issue of this OM and who have rendered a continuous service of at least one year, which means that they must have been engaged for a period of at least 240 days (206 days in the case of offices observing 5 days week).

ii) Such conferment of temporary status would be without reference to the creation/availability of regular Group 'D' posts.

iii) Conferment of temporary status on a casual labourer would not involve any change in his duties and responsibilities. The engagement will be on daily rates of pay on need basis. He may be deployed anywhere within the recruitment unit/territorial circle on the basis of availability of work.

iv) Such casual labourers who acquire temporary status will not, however, be brought on to the permanent establishment unless they are selected through regular selection process for Group 'D' posts.

3. Temporary status would entitle the casual labourers to the following benefits:-

i) Wages at daily rates with reference to the minimum of the pay scale for a corresponding regular Group 'D' official including DA, HRA and CCA.

ii) Benefits of increments at the same rate as applicable to a Group 'D' employee would be taken into account for calculating pro-rata wages for every one year of service subject to performance of duty for at least 240 days (206 days in administrative offices observing 5 days week) in the year from the date of conferment of temporary status.

iii) Leave entitlement will be on a pro-rata basis at the rate of one day for every 10 days of work, casual or any other kind of leave, except maternity leave, will not be admissible. They will also be allowed to carry forward the leave at their credit on their regularisation. They will not be entitled to the benefits of encashment of leave on termination of service for any reason or on their quitting service.

iv) Maternity leave to lady casual labourers as admissible to regular Group 'D' employees will be allowed.

v) 50% of the service rendered under Temporary Status would be counted for the purpose of retirement benefits after their regularisation.

vi) After rendering three years' continuous service after conferment of temporary status, the casual labourers would be treated on par with temporary Group 'D' employees for the purpose of contribution to the General Provident Fund, and would also further be eligible for the grant of Festival Advance/Flood Advance on the same conditions as are applicable to temporary Group 'D' employees, provided they furnish two sureties from permanent Govt. servants of their Department.

vii) Until they are regularised, they would be entitled to Productivity Linked Bonus/Ad-hoc bonus only at the rates as applicable to casual labourers.

6. No benefits other than those specified above will be admissible to casual labourers with temporary status. However, if any additional benefits are admissible to casual workers working in Industrial establishments in view of provisions of Industrial Disputes Act, they shall continue to be admissible to such casual labourers.

7. Despite conferment of temporary status, the services of a casual labourer may be dispensed with by giving a notice of one month in writing. A casual labourer with temporary status can also quit service by giving a written notice of one month. The wages for the notice period will be payable only for the days on which such casual worker is engaged on work.

8. <u>Procedure for filling up of Group 'D' posts.</u>

i) Two out of every three vacancies in Group 'D' cadres in respective offices where the casual labourers have been working would be filled up as per extant recruitment rules and in accordance with the instructions issued by Department of Personnel and Training from amongst casual workers with temporary status. However, regular Group 'D' staff rendered surplus for any reason will have prior claim for absorption against existing/future vacancies. In case of

Attested
Advocate.

illiterate casual labourers or those who fail to fulfil the minimum qualification prescribed for post, regularisation will be considered only against those posts in respect of which literacy or lack of minimum qualification will not be a requisite qualification. They would be allowed age relaxation equivalent to the period for which they have worked continuously as casual labourer.

9. On regularisation of casual worker with temporary status, no substitute in his place will be appointed as he was not holding any post. Violation of this should be viewed very seriously and attention of the appropriate authorities should be drawn to such cases for suitable disciplinary action against the officers violating these instructions.

10. In future, the guidelines as contained in this Department's OM dated 7.6.88 should be followed strictly in the matter of engagement of casual employees in Central Government offices.

11. Department of Personnel and Training will have the power to make amendments or relax any of the provisions in the scheme that may be considered necessary from time to time.

Attested
Advocate.

Attested
Advocate.

R/14.10.97

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ANNEXURE-6

No. MDD/WC/Estt-24(A)/97/ 677-80
Government of India
Central Water Commission
Middle Brahmaputra Division
Rajgarh Road :: Guwahati-781007

Dated the 9/10 /1997.

OFFICE ORDER

In accordance with Ministry of Water Resources, Shram Shakti Bhawan, New Delhi's letter No.8/3/95- Estt.I (Vol.II) dated 20.6.97, communicated vide Under Secretary, Estt.XII, C.W.C., New Delhi's letter No.A- 11013/ 1-95. Estt.II/ 1096 dated 30.6.97, as per the directive of the Chief Engineer, B.B. Basin, c.w.c., Shillong letter No.2(1)/ 96- BDD/ 1076-87 dated 11.7.97 and the Superintending Engineer, C.W.C., Guwahati letter No.A- 15017/ 12(36)/ 97- Estt.II/ 1990 dated 31.7.97, the service of Miss Anima Talukdar daughter of Late Gopal Ch.Talukdar, who was appointed as Seasonal Khalasi and her service was continued as per the order of Hon'ble CAT, Guwahati Bench, Guwahati dated 20.6.94 in M.B. Sub-division, C.W.C., Guwahati under this Division and has rendered a minimum of 120 days continuous service in Central Water Commission or such Seasonal Khalasi who is engaged any time during the preceding one year and have rendered a minimum of 120 days continuous service in that year are covered under the scheme "Grant of Temporary Status and Regularisation of Seasonal Khalasi in workcharged establishment of Central Water Commission 1997" formulated by the Ministry of Water Resources, New Delhi vide No.8/3/95- Estt.I. The grant of Temporary Status under the above scheme is hereby conferred to Miss Anima Talukdar, Seasonal Khalasi with effect from 1.6.1997 in terms of C.W.C. letter mentioned above.

She will be entitled benefits as stipulated in the above scheme. The terms and conditions governing her service in Temporary Status will be as per the provisions contained in the above scheme.

8.10.97

EXECUTIVE ENGINEER

Copy for favour of information to:-

1. The Chief Engineer(HRM), Central Water Commission, Sewa Bhawan, R.K. Puram, New Delhi 110066.
2. The Chief Engineer, Brahmaputra-Barak basin, Central Water Commission, Shillong.
3. The Superintending Engineer, Hydrological Observation Circle, C.W.C., Nabin Nagar, Janapath, Guwahati-24.
4. The Executive Engineer, O.B. Division, CWC, Dibrugarh.
5. The Executive Engineer, L.B. Division, CWC, Jalpaiguri.
6. [illegible]
7. Section Head, M.B. Division, CWC, Guwahati-7.
8. Person concerned through A.E., M.B. Sub-division, CWC, Guwahati. She is directed to submit testimonials in respect of date of birth, Educational Qualification and status as SC/ ST/ OBC/ if applicable immediately through her Sub-divisional Officer.

Attested

Advocate

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ANNEXURE -7

No.MBD/Gau/Estt-54(CAT)/97/ 7434-40
Government of India
Central Water Commission
Middle Brahmaputra Division
Rajgarh Road, Guwahati-781007

Dated the 26/11/ 1997.

OFFICE ORDER

As per the direction of the Director (Estt) Ministry of Water Resources, New Delhi vide No.8/49/97-Estt.I dt.24.11.97, the office order No.MBD/Gau/Estt-54(CAT)/97/6781-86 dt.9.10.97 issued to Smt.Anima Talukdar attached to M.B. Sub-division, CWC, Guwahati is hereby withdrawn.

26.11.97

(R.ALAM)
EXECUTIVE ENGINEER

1. The Superintending Engineer, Hydrological Observation Circle, CWC, Nabin Nagar, janapath, Guwahati-24.

2. The Director (Estt), M.O.W.R., New Delhi.

3. The Director (Estt), Central Water Commission, New Delhi-66.

4. The Assistant Engineer, M.B.Sub-division, CWC, Guwahati.

5. Accounts Branch, MBD, CWC, Guwahati.

6. Smt.Anima Talukdar, through the A.E., MBSD, CWC, Guwahati.

7. File 24(A).

Attested
Advocate.

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ANNEXURE - 8

GRAM : FORECAST.

PHONE : 20799

GOVERNMENT OF INDIA
CENTRAL WATER COMMISSION
UPPER BRAHMAPUTRA DIVISION
P.O. CENTRAL REVENUE BUILDING
DIBRUGARH-786003

NO.UBD/Dib/WC-17/97/8977-83 Dated, Dibrugarh the 6.10./97.

OFFICE ORDER

In accordance with Ministry of Water Resources, New Delhi's letter No.8/3/95-Estt.I(Vol.II) dtd. 20.6.97 communicated vide Under Secretary, Estt.XII, CWC, New Delhi's letter No.A-11013/1-95.Estt.XII/1096 dated 30.6.97. and as per direction of Under Secretary, CWC, New Delhi's letter No.A-11019/1/95-Estt.XII dated 1.10.97 and Superintending Engineer, H.O. Circle, CWC, Guwahati's letter No. [illegible] dated 3.10.97, Md. Aibuddin Ahmed is hereby granted temporary status with effect from 1.6.97. Therefore, Md. Aibuddin Ahmed will stand terminate with effect from 15.10.97 (afternoon).

He will be entitled for the benefits as stipulated in the scheme "Grant of Temporary Status and Regularisation of [illegible] provision contained in the above scheme.

R.Singh 6/10
(Ravinder Singh
Executive Engineer

Copy to :-

1. The Superintending Engineer, Hydrological Observation Circle, CWC, Nabin Nagar, Janapath, Guwahati- 781024 for information.
2. The Assistant Engineer, D(S)K Sub-Division, CWC, Nagaon for compliance. The person concern may be informed accordingly.
3. Md. Aibuddin Ahmed, Seasonal W/C Khalasi (Through A.E., Nagaon).
4. Accounts Branch/DB/PF/Service Book.

Attested
Advocate

42- ANNEXURE -9

GRAM:FORECAST:DIBRUGARH PHONE/FAX:0373-20799

GOVERNMENT OF INDIA
CENTRAL WATER COMMISSION
UPPER BRAHMAPUTRA DIVISION
P.O.:CENTRAL REVENUE BUILDING
DIBRUGARH-786 003

No.UBD/Dib/WC-17/97/10461-73 Dated, Dibrugarh the 27th Nov.1997.

OFFICE ORDER

As per the direction of the Director(Estt), Ministry of Water Resources, New Delhi vide No. 8/49/97-Estt.I dt. 24.11.97, the Office Order No. UBD/DIB/WC-17/97/8977-83 dated 6.10.97 issued to Md. Aibuddin Ahmed attached to D(S)K Sub-Divn.,CWC, Nagaon is hereby withdrawn.

R.Singh 27/11
(RAVINDER SINGH)
EXECUTIVE ENGINEER
27.11.97

Copy to:

1. The Superintending Engineer, Hydrological Observation Circle,CWC,Nabin Nagar, Janapath,Guwahati-781024.

2. The Director(Estt.), M.O.W.R., New Delhi.

3. The Director(Estt.), Central Water Commission,New Delhi-66.

4. The Asstt.Executive Engineer,D(S)K Sub-Divn.,CWC,Nagaon.

5. Md. Aibuddin Ahmed, (Through AEE, Nagaon)

6. Accounts Branch/Drawing Branch.

No - 1 dt 01/12/97

Copy passed on to Sri A. Ahmed. Sikha.

EE

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43 - ANNEXURE - 10

PHONE NO.450073
FAX NO.540841.

NO.A-15017/12(19)/Estt-W/C/2002/1315
Government of India
Hydrological Observation Circle
Central Water Commission
Nabin Nagar : Janapath
Guwahati (Assam : 781 024)

Dated 04-6 /2002.

The Executive Engineer,
Middle Brahmaputra Division,
Central Water Commission,
Rajgarh Road, Guwahati-781 007.

Subject :- Regularisation of Service of Smt.Anima Talukdar, Seasonal Khalasi-regarding.

Reference:-Your letter No.MBD/GAU/Estt-II/PF-1168/02/3180 dated 29.05.2002.

In response to the letter cited above it is intimated that the matter has been discussed with CWC, authority while the undersigned was on tour to New Delhi. The CWC(HQ) is processing the case. The concerned incumbent may be informed accordingly.

(A.K. KHARYA)
SUPERINTENDING ENGINEER

PF-102

Diary No. 591
Date 10/6/02
M.B. Sub-Division, C.W.C. GUWAHATI

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No.MBD/Gau/Estt-II/PF-1168/2002/3422-23
Government of India
Central Water Commission
Middle Brahmaputra Division
Rajgarh Road : : Guwahati-781007

Dated, the 7/6/ /2002.

Copy to:-

1) The Asstt.Engineer, M.B.Sub-Division, CWC,Guwahati-3 for information with reference to his letter No. MBSD/Gau/PF-102/2002/557-558 Dt. 16/5/2002.

2) Smt. Anima Talukdar, Khalasi through the Asstt. Engineer, M.B.Sub-division, CWC, Guwahati-3 for information with reference to his representation dt. 15/5/02.

06.6.2

(A.K.SRIVASTAVA)
EXECUTIVE ENGINEER

Attested
Advocate